

Lansing, Michigan

August 21, 2001

A regular meeting of the State Administrative Board was held in the State Capitol, Senate Appropriations Room, 3rd Floor, on Tuesday, August 21, 2001, at 11:00 a.m.

Present:     Brian DeBano, Director of State Government Affairs, representing  
                  John Engler, Governor, Chairperson  
                  David Hildenbrand, Deputy Chief of Staff, representing Dick  
                  Posthumus, Lt. Governor  
                  Theodore Hughes, Assistant Attorney General for Law, representing  
                  Jennifer M. Granholm, Attorney General  
                  Roberta McKennon, Assistant Administrator, Office of Program  
                  Management, representing Douglas B. Roberts, State Treasurer  
                  A. Edwin Dore, Deputy Secretary of State, representing Candice  
                  Miller, Secretary of State  
                  Carol Wolenberg, Deputy Superintendent, representing Thomas D.  
                  Watkins, Superintendent of Public Instruction  
                  Arlene Oisten, Secretary

Absent:       None

Others Present:

Cherie Mollison, Wendi Middleton, Office of Services to the Aging;  
Kristi Broessel, Geralyn Lasher, Ester Reagan of the Department of  
Community Health; John Czarnecki, Mary Kramer of Michigan  
Economic Development Corporation; Sherry Bond, James Burris,  
Penny Griffin, Kathy Jones of the Department of Management and  
Budget; Randy Knapp, Pam Lavender of the Department of  
Transportation; Bob Alexander, Janis L. Lawson, Victor Weipert of  
Citizens for Better Care

1.     CALL TO ORDER:

The meeting was called to order by Mr. DeBano. Reverend Gordon Weller of St. Paul's Episcopal Church in Lansing gave the invocation. Mr. DeBano led the Pledge of Allegiance to the Flag.

2. READING OF MINUTES OF PRECEDING MEETING AND APPROVAL THEREOF:

Mr. Hughes moved that the minutes of the State Administrative Board for the regular meeting of August 7, 2001 be approved as distributed. Ms. McKennon supported the motion, and it was unanimously adopted.

3. HEARING OF CITIZENS ON MATTERS FALLING UNDER JURISDICTION OF THE BOARD

Mr. Weipert, Executive Director of Citizens for Better Care (CBC), spoke in opposition to the Long Term Care Ombudsman grant with the Office of Services to the Aging (OSA). CBC has been an effective advocate and provided services to the elderly using federal and state funds for over 30 years. They have six offices and 33 staff throughout the state. They have leveraged funding to support local ombudsman.

CBC feels the application process was flawed. There were two major requirements, the contractor being a private non-profit agency and there being no conflict of interest with other agencies. Both applicants met these requirements. However, OSA added other requirements including the requirement to collect complainant's social security numbers. CBC believes that requirement violates federal law and CBC thus did not include this in their response to the Request for Proposal. Consequently, CBC was not scored nor considered for award of the Long Term Care Ombudsman grant.

Mr. Weipert noted that the grant conditions require that the Social Security number of the complainant be collected before they are provided any service. The language of the grant requires that the terms will be binding.

Another CBC concern was terminology in the grant application that says federal funds would be used for lobbying efforts and soliciting funds from individuals. Federal funds are not to be used for solicitations of funds from individuals. The proposed grant does not specify that federal funds should not be used in this manner.

Based upon the aforementioned concerns, Mr. Weipert requested that the Board disapprove the grant application.

Mr. Hughes asked Mr. Weipert several questions concerning the requirement to acquire Social Security numbers prior to receiving services. The requirement does not specifically limit the request for Social Security numbers to long-term care recipients, but to anyone who would seek the

assistance of the Long Term Care Ombudsman. The numbers would provide a way of tracking client services, however, CBC has been able to provide unduplicated counting of services to the federal government for thirty years. Mr. Weipert felt that the requirement of giving a Social Security number prior to receiving services would have a very chilling effect on persons coming to the Ombudsman for services.

Mr. Hughes noted that the federal statute requires the Ombudsman to be an advocate on behalf of the long term care residents. The contract on page 16, Section XVII, D and E require all drafts of testimony, reports and other public policy documents, as well as news release pertaining to services, study, data or results must first be approved by OSA. He questioned Mr. Weipert about his concerns on this issue.

Mr. Weipert referred to the language as “gag” language. CBC had worked with OSA over the years and had established a process for approval of public informational releases.

Ms. Wolenberg questioned why CBC’s application had not been scored. She noted a review sheet contained in the information provided by CBC.

Mr. Weipert explained that the CBC proposal had been reviewed, but because they did not supply information on the collection of the Social Security numbers, the CBC proposal was not further considered by OSA.

Ms. Wolenberg also noted that the Department of Education had maintained records of thousand of their students without having to use Social Security numbers as a monitoring or reporting mechanism. She questioned Mr. Weipert concerning CBC’s collection of information.

Mr. Weipert explained that CBC had established a way to monitor recipient services and prepare unduplicated reports for their clients . . . without using Social Security numbers.

Ms. Middleton and Ms. Mollison spoke on behalf of OSA. They assured the Board members that the Social Security numbers collected would only be those of recipients. The information would be used to monitor complaints to be investigated, implement preventative services, and propose long term care needs. OSA would follow state and federal guidelines for the collection and security of Social Security numbers. The requirement for following these laws is contained in the RFP.

The language for reviewing information to be presented to the public by OSA has been in the contract since 1994. OSA and CBC have jointly worked as an advocate for the long term care recipients.

The Joint Evaluation Committee (JEC) was composed of professionals familiar with the long term care issues and having the same type of background as previous JECs. Although there are two federally mandated criteria for the Ombudsman, OSA has the option to add their own additional criteria to an RFP. CBC was made aware of this additional request and it was also posted on the web site.

Mr. Hughes noted that the proposal submitted by Elder Law of Michigan contained language stating that they would require the Social Security numbers prior to providing services. On page 15 of the contract, this is an express requirement.

Ms. Middleton assured the Board that OSA did not interpret this provision to require Social Security numbers . . . which would only be requested.

Ms. Mollison stated that they wanted the vendor to make a “good faith effort” to collect the Social Security numbers. An August 13, 2001 letter of clarification of intent has been sent by OSA to Elder Care of Michigan explaining that the Social Security numbers would be strictly voluntary. A work plan would be negotiated as to how it would be carried out.

Mr. Hughes asked if the “gag” language had been in prior contracts and if CBC had their information reviewed prior to public dissemination, and if the new contract would still have this requirement.

Ms. Middleton explained to the Board that CBC had sent their information for review and approval prior to releasing it to the public and that the language in the contract would still be enforced in this way.

Mr. Dore inquired whether the language in the letter from OSA to Elder Law could be inserted in the contract. Mr. Hughes noted that Elder Law of Michigan had not responded to the OSA August 13, 2001 letter. He also asked if OSA would still require collection of the Social Security numbers of other clients, such as employees, family, and friends of those caring for the residents.

Ms. Middleton stated that OSA was only interested in the residents’ Social Security numbers for tracking services.

4. COMMUNICATIONS:

None

5. UNFINISHED BUSINESS:

None

6. NEW BUSINESS:

State Renaissance Zone Review Board Recommendation for Renaissance Zone Application Modifications for time extensions and an additional new subzone commencing January 1, 2002, in accordance with Public Act 376 of 1996.

Ms. Wolenberg moved that the State Renaissance Zone Review Board recommendations be approved. The motion was supported by Ms. McKennon and unanimously adopted.

Certified Retention and Disposal Schedules:

Clare County Sheriff Department-Jail, 7/13/01

Retention and Disposal Schedules:

Department of Community Health, Division of Family and Community Health, Early Hearing Detection and Intervention, 7/20/01

Department of Consumer and Industry Services, Office of Fire Safety, 7/23/01

Mr. Hughes moved that the Certified Retention and Disposal Schedules and the Retention and Disposal Schedules be approved by the Board. Mr. Dore supported the motion and it was unanimously approved.

7. REPORTS AND RECOMMENDATIONS OF COMMITTEES:

(Please see the following pages)

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Ms. McKennon presented the Finance and Claims Committee Report covering the regular meeting held August 14, 2001. After presentation and review of the forgoing Committee Report, Ms. McKennon moved that the regular Finance and Claims Committee Report of August 14, 2001 be approved and adopted, noting the Committee withdrawal of items 2 (19) and 2 (20) of Section I. The motion was supported by Mr. Dore.

Mr. DeBano moved to amend the motion presented by Ms. McKennon to postpone the vote on agenda item 2 (24) of Section I regarding Elder Law of Michigan. Mr. Dore supported the motion and it was unanimously approved.

Mr. Hughes moved for the consideration of the motion to approve the Finance and Claims agenda of August 14, 2001, excluding item 2 (24) of Section I. Mr. Hildenbrand supported the motion and it was unanimously approved.

Ms. Wolenberg moved that the Board table the remaining agenda item for clarification of the contract language. The motion died for lack of support.

Mr. Hughes stated that the Attorney General could not support the Long Term Care Ombudsman contract award in Section I item 2 (24). The Attorney General declines approval because the contract, by its terms and conditions, incorporates the requirement that a Social Security number be required as a condition of providing services; and, that the contract, by its terms and conditions, prohibits the Ombudsman from having the freedom of press releases or data information release without the approval of the OSA.

The Attorney General feels this contract is poor public policy for four reasons. The requirement of collecting Social Security numbers will have a chilling effect upon persons needing to report abuse of long term care services. The

Social Security number requirement to file a complaint will create a fear of retaliation for those receiving care or their families.

The requirement of Social Security numbers is an invasion of personal privacy. The collection of these numbers will only increase fears of keeping anonymity and increase the concerns of having witnesses become intimidated.

Identity fraud has already been a problem identified by the Attorney General regarding hospital patients. This will only allow further opportunity for this type of crime.

Federal and State law require that the Ombudsman be an independent advocate. The contract language inappropriately requires that public information or testimony first be approved by OSA.

Mr. Dore moved to amend the motion to approve the Long Term Care Ombudsman contract to add the contingency that the collection of the Social Security numbers are not required to receive services. The motion was supported by Mr. Hildenbrand and unanimously approved.

Mr. Hughes moved that the motion be amended to include the deletion of two contract paragraphs (Section XVII D and E), that require ombudsman documents and press releases to first be approved by the OSA. Ms. Wolenberg supported the motion. The motion was defeated on a vote of two to four.

Mr. DeBano's motion to approve the Long Term Care Ombudsman contract, item 2 (24) Section I of the agenda, with the contingency that the collection of

Social Security numbers not be required to receive services, was called for a vote by Mr. DeBano. The motion passed on a four to two vote.



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Ms. McKennon presented the Building Committee Report covering the regular meeting held August 15, 2001. After presentation and review of the forgoing Committee Report, Ms. McKennon moved that the regular Building Committee Report of August 15, 2001 be approved and adopted. The motion was supported by Mr. Dore and unanimously approved.

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Mr. Dore presented the Transportation and Natural Resources Committee Report for the regular meeting of August 15, 2001. After review of the forgoing Transportation and Natural Resources Committee Report, Mr. Dore moved that the Transportation and Natural Resources Committee Report covering the regular meeting held August 15, 2001 be approved and adopted noting the withdrawal of items 5, 6, 9, and 10 at the Committee meeting. The motion was supported by Mr. Hildenbrand and was unanimously approved.

8. MOTIONS AND RESOLUTIONS:  
None

9. ADJOURNMENT:

Mr. Dore moved the meeting be adjourned. The motion was supported by Ms. Wolenberg and unanimously approved. Mr. DeBano adjourned the meeting.

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SECRETARY

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CHAIRPERSON